

REMARKS

Reconsideration of this application is respectfully requested in view of these remarks.

The Gilpin and Lerner references cited in the Office Action do not constitute prior art because applicant had a constructive reduction to practice of the invention (a fully functional commercial embodiment) prior to the effective date of either of these references. Nevertheless, the undersigned has found two other references which are relevant to the examination of this application. One reference is Patent No. 6,104,007, which is an earlier patent of the same inventor Lerner as the Lerner reference (Pat. No. 6,639,190) cited in the Office Action. The '007 Lerner patent appears to have much the same disclosure as the cited '190 Lerner patent. It appears to the undersigned that the cited '190 Lerner reference has merely added the material from column 11, line 20 to column 15, line 26, and has added sheets 6 and 7 of the drawings. Otherwise the two Lerner patents appear to be identical (apart from the claims). The undersigned has also recently learned of US Patent No. 4,983,810 of Balderson entitled "Heating Unit with Thermochromic Region."

The pending claims have been amended and two new claims have been added. In particular, the general term "thermochromic substance" has been replaced with "layer of thermochromic coating composition." This is intended to distinguish liquid crystals such as discussed in the Lerner references, which are not in the form of a layer of a coating composition, and it is intended to cover thermochromic inks and other such coatings. Support may be found in the specification at page 3, line 26 et seq.

New claims 14 and 15 are directed to halogen worklights of the type having one or more worklight heads where each head has a nominal power rating of at least 500 Watts. Support for this limitation is found in the specification at page 2, line 25.

Neither of these references is prior art to the claimed invention, and even if they were, they do not disclose or suggest the invention defined by any of the claims.

The Gilpin reference is a United Kingdom patent application that was filed on April 6, 1999, but was not published until October 11, 2000. The April 6, 1999 date is not the effective date of this reference's prior art. The Gilpin application never

issued as a patent. Submitted herewith as exhibit A is a printout from the UK patent office , showing the status of this application. The exhibit A indicates that the application was terminated before Grant on April 12, 2001. Thus, the Gilpin reference is not itself a patent and never resulted in a patent. If the Gilpin reference is to constitute prior art, it is only as a printed publication as of its publication date of October 11, 2000.

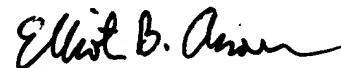
The Lerner reference is a US patent issued on an application filed February 21, 2001. Thus, the Lerner reference has an effective prior-art date of February 21, 2001 under 35 USC 102(e).

Applicant had an actual reduction to practice of the claimed invention in this country at least as early as October 1, 2000, and had sold and shipped worklights incorporating the claimed invention on or about January 13, 2001. Since the actual reduction to practice is earlier than the effective prior art date of either reference, either reference constitutes prior art to the invention. See the accompanying Declarations of Lee and of Aronson. The proprietor of the present application, EML Technologies LLC, had already manufactured and shipped a commercial quantity of worklights incorporating the claimed invention to Sears, Roebuck & Co. before Lerner had ever filed the patent application resulting in the cited Lerner '190 patent.

The amended claims are believed to distinguish over the newly submitted Lerner '077 patent and Balderson patent.

The undersigned asserts that the application is now in condition for allowance and action to that effect is respectfully requested. If the examiner feels that there are any lingering issues that can be resolved by telephone or feels that a telephone interview would be beneficial in any way, she is invited to call the undersigned at 510-658-9511.

Respectfully submitted,



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I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office to fax No. 703-872-9306 on the date shown below.

By _____

Date _____

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